

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MICHAEL LEE KING,

Plaintiff,

v.

CIVIL ACTION NO. 2:22-cv-00149

DCR/SCRJ, et al.,

Defendants.

ORDER

Pending before the Court is Plaintiff's Complaint. (ECF No. 1.) By Standing Order entered in this Case on March 29, 2022, (ECF No. 2), this action was referred to the United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley filed his PF&R on November 16, 2022, recommending that this Court dismiss the action for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A. (ECF No. 3.)

This Court is not required to review, *de novo* or under any other standard, factual or legal conclusions contained within the PF&R to which no objections were addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general

and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on December 5, 2022. (ECF No. 3.) To date, Plaintiff has failed to submit any objections in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiff's right to appeal this Court's order. The Court notes that Plaintiff has also seemingly failed to maintain his current address with the clerk as the PF&R, which was sent to Plaintiff at his address on record, was returned as undeliverable. (See ECF No. 4.) Per Rule 83.5 of the Local Rules of Civil Procedure, Plaintiff—as a *pro se* party—“must advise the clerk promptly of any changes in name, address, and telephone number.” The fact that the PF&R mailed to Plaintiff was returned as undeliverable due to Plaintiff's failure to maintain his current address with the clerk does not impact the Court's review and analysis of the PF&R and does not provide Plaintiff with an avenue to object to the PF&R after the December 5, 2022 deadline. Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 3), and **DISMISSES** the action **WITH PREJUDICE**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 8, 2022



THOMAS E. JOHNSTON, CHIEF JUDGE